



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

KD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
05/134,595	11/30/98	DELESALLE	065691/0145

HM12/0718

FOLEY & LARDNER  
WASHINGTON HARBOUR  
3000 K STREET NW SUITE 500  
PO BOX 25696  
WASHINGTON DC 20007-8696

EXAMINER
KIMBALL, M

ART UNIT	PAPER NUMBER
1535	

DATE MAILED:

07/18/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/194,598

Applicant(s)

Delesalle et al.

Examiner

M lissa Kimball

Group Art Unit

1638



☒ Responsive to communication(s) filed on Mar 14, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-11 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-11 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1638

## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 4-9, 10, and 11, drawn to a recombinant plant genome comprising sunflower orf 522 sequence, cytoplasm containing said genome and further to methods of using the sequence in plant transformation or selection, classified in class 800, subclass 278, for example.
  - II. Claims 2-3, drawn to mitochondria, classified in class 424, subclass 1.17, for example.
2. The inventions listed as Groups I. and II. do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the organelle transformation and isolation methods required for Group II. are not required of Group I.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and because the search required for Group I. is not required for Group II., restriction for examination purposes as indicated is proper.

Art Unit: 1638


4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

5. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. In the interest of compact prosecution the content of the papers made of record is brought to Applicants' attention. The translation and title of foreign document PCT/FR98/00944 are clearly directed to an electrical invention with no relation to the instant invention. Submission of the correct priority document is recommended so that priority can be determined in a future office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Kimball whose telephone number is (703) 305-6999.

MLK

July 11, 2000

  
PAULA HUTZELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600